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A Fly in the Water Bottle: The Supreme Court Defines Reasonable Foreseeability in Negligence Actions

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On May 22, 2008, the Supreme Court of Canada rendered its decision in a case involving the notion of reasonable foreseeability in negligence actions. This judgment, written by the Chief Justice, confirms that tort law must compensate harm done on the basis of reasonable foresight, and must not be considered as insurance.

While replacing a water bottle in his home water cooler, the Appellant, Waddah Mustapha, found a dead fly and part of another dead fly in the unopened water bottle. Mr. Mustapha sued Culligan, the supplier and manufacturer of the water bottle, for compensation for his psychiatric injuries.

Mr. Mustapha sued Culligan in both contract and tort, which is not permitted in Quebec but is permitted in Ontario and other common law jurisdictions. The Supreme Court of Canada's analysis was based completely on tort law principles.

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